IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 22959 of 2006(G)

PETITIONER:

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1. JOSE PUTHENKALA,
   PUTHUKALA HOUSE, MANNAR, POZHIKAL P.O.,
   KACHUTHURUTHU.

2. V.L. THOMAS, VALAKULATHIL,
   KUNJIRATHANA P.O., KARUPPUTHARA.

BY ADV. SRI.K.P.DANDAPANI (SR.)
SRI.M.A.JOSEPH MANAVALAN
SRI.ANTONY KALAMBUKADAN
SRI.SOORAJ ELANJICKAL

RESPONDENTS:

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1. KADUTHURUTHU CO-OPERATIVE RUBBER
   MARKETING AND PROCESSING SOCIETY LTD.NO.1397,
   KADUTHURUTHY, REPRESENTED BY ITS
   MANAGING DIRECTOR.

2. P.M. MATHEW, PRESIDENT,
   KADUTHURUTHY CO-OPERATIVE RUBBR MARKETING
   AND PROCESSING SOCIETY LTD.NO.1397,
   KADUTHURUTHY.

3. THE REGISTRAR, CO-OPERATIVE SOCIETIES
   OF KERALA, THIRUVANANTHAPURAM.

4. THE JOINT REGISTRAR OF CO-OPERATIVE
   SOCIETIES, COLLECTORATE BUILDINGS,
   KOTTAYAM.

5. THE STATE OF KERALA, REPRESENTED BY
   THE SECRETARY TO DEPARTMENT OF CO-OPERATIVE
   SOCIETIES, GOVT.SECRETARIAT, TRIVANDRUM.

BY. .GOVT. PLEADER SMT. ANU SIVARAMAN FOR R3 TO R5
ADV SRI.V.G.ARUNFOR R1 AND R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. BASHEER, J.

W.P.(C). NO. 22959 OF 2006

Dated this the 9th day of July, 2007

J U D G M E N T

Petitioners who are stated to be the members of Kaduthuruthy Co-operative Rubber Marketing and Processing Society Ltd. (for short the Society) had serious reservations about the proposal for amendment of the bye-laws of the Society, which was scheduled to be taken up for consideration in the General Body Meeting on August 27, 2006.

2. The primary prayer in this writ petition which was filed on August 24, 2006 was to issue a writ of mandamus or such other appropriate direction to respondents 3 and 4, the Registrar and Joint Registrar respectively of the Co-operative Societies, to take appropriate action in the matter in the light of the contentions raised by the petitioners in Ext.P5 representation. Petitioner also prayed that all decisions that may be taken in the General Body Meeting be declared as void.

3. It is beyond controversy that the General Body Meeting was held as scheduled on August 27, 2006. It is also the admitted position that the proposed amendments were carried in the General Body Meeting.

4. Learned counsel for the Society submits that the amendment has come into force and certificate to this effect has already been issued on December 4, 2006.

5. But it is contended by the petitioners that the above certificate was issued despite the fact that the interim direction issued by this Court to keep the amended bye-laws in abeyance was in force.

6. On December 21, 2006 this Court had passed the following order.

> *"This interlocutory application was filed on 30.11.2006. However, the same was pending. Counsel for the petitioners submit that despite the pendency of the matter, the approval of the amendment of the bye-laws has been proceeded with by the Joint Registrar and now it appears that the same is approved.*
>
> *The learned Govt. Pleader submits that the amended bye-laws has been registered bu the Joint Registrar, as per the order dated 4.12.2006.*
>
> *Without entering into any discussions on the merit of the matter, I direct that the bye-laws that are sought to be amended and now registered has to be kept in abeyance up to 9.1.2007."*

7. The above interim order was extended by one week on January 8, 2007. But, thereafter no interim order was in force. Anyhow, I do not deem it necessary to go into the rival contentions of the parties and also the question whether the amended bye-laws have already been approved in accordance with law or not etc., in view of the limited submission made by the learned counsel for the petitioners at the Bar. He submits that petitioners will be satisfied if a direction is issued to respondent No.3 to take a decision on Ext.P7 representation submitted by petitioner No.1 on August 29, 2006. Though learned counsel for the Society has expressed some reservation about the bona fides of the above plea, he submits that

he has no objection if respondent No.3 takes a decision in the matter on its merit, after affording sufficient opportunity to the Society also to be heard.

In the above facts and circumstances, this writ petition is disposed of wit a direction to respondent No.3 to consider and pass orders on Ext.P7 strictly on its merit and in accordance with law, as expeditiously as possible, at any rate , within 2 months from the date of receipt of a copy of this judgment. Necessarily respondent No.3 shall ensure that petitioner and respondents 1 and 2 and all others who are likely to be affected by the order, are afforded sufficient opportunity to be heard before any decision is taken in the matter. Petitioners shall produce a certified copy of this judgment along with a copy of the writ petition before respondent No.3 for compliance.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007